

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2018-202-E

IN RE:	Petition of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC for Approval of CPRE Queue Number Proposal, Limited Waiver of Generator Interconnection Procedures, and Request for Expedited Review)))))))	SOUTH CAROLINA OFFICE OF REGULATORY STAFF COMMENTS
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The below comments are provided to the Public Service Commission of South Carolina (“Commission”) by the South Carolina Office of Regulatory Staff (“ORS”) in response to the Petition of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (collectively referred to herein as the “Companies”) for Approval of CPRE Queue Number Proposal, Limited Waiver of Generator Interconnection Procedures, and Request for Expedited Review, filed on August 30, 2019 (“Petition”).

Included in the Petition are details regarding the Tranche 2 RFP, including Lessons Learned from Tranche 1 as provided in the Independent Administrator’s (“IA”) Final Tranche 1 Report.¹ The Companies state that this Petition is similar in its request for relief as the request for approval of Tranche 1. The Companies renew their request for the Commission to consider the appropriateness of cost recovery for interconnection upgrade costs into the Companies’ respective rate bases rather than requiring the winning qualified facilities to directly pay those costs. Additionally, the Companies’ Petition asserts that the information provided in the Petition includes “...the full details of the upcoming Tranche 2 RFP...” and seemingly requests approval of the Petition based on the same.²

¹Accion Group Final Report of the Independent Administrator, July 18, 2019. Filed with the Commission July 26, 2019.

² See page 2 of the Petition, which states, “...the Companies are now requesting Commission approval of the same limited waivers and proposal to issue a CPRE Queue Number to facilitate the same interconnection grouping study evaluation process for CPRE Tranche 2 RFP.”

Among other concerns raised by this Petition, ORS believes that the Companies' request may be in direct contravention to Commission Order No. 2018-803(A), in which the Commission prohibited the Companies from entering into Tranche 2 of the CPRE "without a proceeding before the Commission."³

The comments below outline ORS's previous filings that are applicable to the Companies' Petition, the impact that the South Carolina Energy Freedom Act ("Act 62" or the "Act") has on the Petition, the relevance of N.C. Gen. Stat. § 62-110.8, and concerns raised by the South Carolina Solar Business Alliance, Incorporated ("SBA") in this docket.

ORS Previously Filed Comments in this Docket

ORS's filed comments in this Docket on September 21, 2018 and October 30, 2018, regarding the Companies' petition for approval of certain requests for implementing the CPRE Program in South Carolina for Tranche 1 remain applicable to the Companies' current request for similar approvals for Tranche 2. In its letter dated September 21, 2018, ORS provided comments and recommendations to the Commission regarding the Companies' Tranche 1, including, but not limited to the following:

- ensuring non-bidding interconnection requests are not delayed or disadvantaged and the requests are processed according to the timelines required by the South Carolina Generator Interconnection Procedures ("SCGIP"); and
- South Carolina ratepayers should not be allocated additional costs incurred by the Companies to administer the CPRE Program or upgrade costs not directly borne by Qualifying Facilities ("QF").

In its letter dated October 30, 2018, ORS provided additional comments and recommendations to the Commission regarding cost recovery and jurisdictional issues. Specifically, ORS recommended the Commission consider that no costs relating to the implementation of a North Carolina mandated

³See Order No. 2018-803(A), page 15, wherein the Commission prohibited the Companies from beginning Tranche 2 of their Competitive Procurement of Renewable Energy ("CPRE") program without a proceeding before the Commission that defines the program and results in a framework for administering CPRE in South Carolina.

renewable program, excepting avoided costs, should be allocated to South Carolina ratepayers, especially network upgrade costs, which ORS asserts should be borne by the QF that caused the upgrades.

Act 62 Sections that Impact the Companies' Request

On May 16, 2019, the Governor signed Act 62 into law. The Act contains provisions that directly impact the Companies' request for relief in this Petition. Specifically excerpted below are S.C. Code Ann. §§ 58-27-460, 58-27-845, and 58-41-20, which relate to the SCGIP; electrical utility customer rights; and competitive procurement of energy and capacity.

Act 62 Provisions on Interconnection Procedures:

58-27-460(A)(1) The commission shall promulgate and periodically review standards for interconnection and parallel operation of generating facilities to an electrical utility's distribution and transmission system, where such interconnection is under the jurisdiction of the commission pursuant to Title 16, Chapter 12, Subchapter II of the United States Code, as amended, regulations and orders of the Federal Energy Regulatory Commission, and the laws of South Carolina. Each electrical utility shall implement such standards in a fair, nondiscriminatory manner.

(A)(2) The commission shall, within six months of the effective date of the amendments to this section, establish proceedings for the purpose of considering revisions to the standards promulgated pursuant to this section. In developing such revisions, the commission may consider any issue, which, in the exercise of its discretion, the commission deems relevant to improving the fairness and effectiveness of the procedures.

...

(E) The commission shall, as part of implementing subsection (A)(1), consider whether a comprehensive independent review of interconnection should be performed and consider whether to require each electrical utility to:

(E)(1) conduct a study to determine the scope and cost of necessary transmission upgrades to support development of renewable energy resources in a manner that does not impact reliability;

(E)(2) evaluate the cost of developing and maintaining hosting capacity maps to allow power producers to identify areas of the distribution grid that are more amenable to building and interconnecting their generation facilities and to avoid areas that are already saturated with distributed generation; and

(E)(3) file a list of interconnected facilities with the commission each quarter, to include interconnections that are under the jurisdiction of the Federal Energy Regulatory Commission.

Act 62 provisions on the rights of electric utility customers:

58-27-845(A) The General Assembly finds that there is a critical need to:
 (1) protect customers from rising utility costs...

Act 62 provisions on competitive procurement of energy:

58-41-20(E)(2) The commission is authorized to open a generic docket for the purposes of creating programs for the competitive procurement of energy and capacity from renewable energy facilities by an electrical utility within the utility's balancing authority area if the commission determines such action to be in the public interest.

These passages of Act 62 comport with ORS's positions as stated in Sections 1.a. through 1.d. in its October 30, 2018, letter regarding the allocation of costs between North and South Carolina ratepayers for programs implemented in each state as a result of each state's independent policy's, statutes, and regulations. Act 62 provides guidance on SCGIP waivers, the administration of a South Carolina competitive procurement of energy program, and network upgrades in base rates. As a result, ORS would respectfully request that the Commission hold in abeyance those sections of the Petition on which Act 62 provides guidance until such time the Commission implements the applicable section of Act 62.

North Carolina Updates in CPRE and Avoided Cost Proceedings

As the CPRE Program is implemented by the Companies pursuant to N.C. Gen. Stat. § 62-110.8, the North Carolina Utilities Commission's ("NCUC") findings and orders in North Carolina CPRE Docket Nos. E-2, Sub 1159 and E-2, Sub 1156, and NCUC's recent determination of avoided cost rates in Docket No. E-100, Sub 158 may be instructive to the Commission. It may be helpful to the Commission to differentiate the requirements of North Carolina statutes and regulations from the requirements of South Carolina statutes and regulations and consider the impacts on South Carolina ratepayers of the issues raised in the North Carolina proceedings.

In North Carolina, utilities are required to establish plans for a CPRE Program pursuant to N.C. Gen. Stat. § 62-110.8. Issues raised during the North Carolina CPRE and Avoided Cost proceedings

that relate to the Petition include: (1) updated avoided cost rates pending determination by NCUC; (2) recovery of upgrade costs through base rates; and (3) application of the Companies' proposed Solar Integration Service Charge ("SISC") in NC Docket No. E-100, Sub 158 to winning bids in the CPRE Program.

NCUC concluded that the general program structure of Tranche 1 is appropriately continued and utilized for the Tranche 2 RFP Solicitation, and the Companies may continue recovery of grid upgrade costs allocated to winning bids through base rates.

Based on stakeholder concerns regarding upgrade cost overruns, NCUC reiterated the "importance that all network upgrade costs be appropriately assigned to a proposal for evaluating cost-effectiveness pursuant to N.C. Gen. Stat. § 62-110.8(b)(2)."⁴ NCUC determined it is appropriate to apply a limit for cost recovery when actual upgrade costs exceed the estimated costs by 25%. However, NCUC reiterates that in the context of a rate case, the utility may rebut this presumption by competent, material, and substantial evidence.

South Carolina Solar Business Alliance, Incorporated's Comments

On September 9, 2019, the SBA filed comments in response to Petition. The SBA's primary concern appears to be ensuring non-discriminatory treatment of non-participating projects, in both the study process and the construction process. SBA notes that the Companies have not provided statistics for CPRE and non-CPRE projects in their first or second quarterly interconnection reports.

Another issue raised by SBA is the uncertainty of the cost of upgrades and the impact to the bidding process. SBA states the impact of the risk of actual costs exceeding estimated costs is very significant for both interconnection facilities and network upgrade costs. SBA states that members have received invoices corresponding to cost overruns for completed interconnection work, up to two or three times the estimated costs. SBA requests the Commission adopt a presumption that any cost

⁴ See Order Modifying and Accepting CPRE Program Plan, Docket No. E-2, Sub 1159, issued July 2, 2019, page 18.

exceedances greater than 25% of estimated costs is unreasonable and unrecoverable whether the cost is paid by the interconnection customer or the ratepayer. SBA also requests this presumption be applied to all interconnection projects, regardless of participation in CPRE.

ORS can neither confirm nor deny the experience of developers in South Carolina as portrayed in the SBA's comments; however, as of the date of these comments ORS has not received any complaints or disputes from interconnection customers or QFs regarding cost overruns or harm related to the waivers granted by the Commission to the SCGIP for Tranche 1.

Recommendations

ORS asserts that aspects of the Petition are premature and points to the unambiguous statement in Order No. 2018-803(A) that "Tranche 2 will not be approved without a proceeding before the Commission that defines the program and results in a framework for administering CPRE in South Carolina." The Petition, much like the Companies Tranche 1 petition, does not define the program or result in a framework for administering CPRE in South Carolina. The Petition also does not consider the impacts of Act 62 on the Companies' request. As a result, ORS requests that the Commission clarify its requirements for a proceeding prior to the Companies' implementation of Tranche 2.

The Commission has not implemented Act 62's provision for competitive procurement of energy. Therefore, it is premature to consider in the context of the Petition, the Companies request to allow the subsidization of network upgrade costs attributed to CPRE QF projects by the Companies' ratepayers. ORS reaffirms its prior recommendations that no costs relating to the implementation of a North Carolina mandated renewable program, excepting avoided costs, should be allocated to South Carolina ratepayers, including network upgrade costs. Additionally, costs to implement the North Carolina CPRE programs should not be recovered from South Carolina ratepayers.

ORS notes that the avoided cost proceedings pursuant to Act 62 in Docket Nos. 2019-185-E and 2019-186-E have just been completed and the Commission should render its determination on or before November 16, 2019. ORS respectfully recommends that any avoided costs applied to South

Carolina bidders in future Tranches approved by the Commission be based on Commission approved avoided costs under Act 62.

ORS neither supports nor rejects SBA's comments as filed. However, ORS recommends these issues be addressed in the competitive energy procurement proceedings as contemplated in Act 62.

In conclusion, ORS provides the following recommendations for Commission consideration regarding the Companies' Petition:

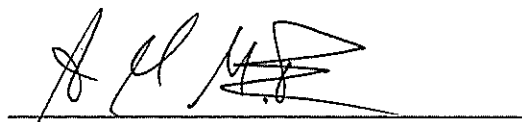
1. Clarify the proceeding for Tranche 2 as contemplated in Order 2018-803(A) and enforce the requirement for holding such proceeding.
2. Hold in abeyance the Companies request for approval of limited waivers of certain sections of the SCGIP and the proposal to use CRPE Queue Numbers to process interconnection requests for Tranche 2 until the proceeding as contemplated in Order No. 2018-803(A) is convened, or an Order is rendered in the proceeding as contemplated in Section 58-41-20(E)(2).
3. Deny the Companies request for approval to include upgrade costs in rate base.⁵
4. Address the issues raised in this Docket relating to concerns of queue backlog and fair and nondiscriminatory queue processing in the proceedings required under Section 58-27-460(A)(2) in Docket No. 2019-326-E.⁶
5. Require any bid by a South Carolina participant should be based on the avoided cost methodology and rates as approved by the Commission pursuant to Act 62.

Finally, ORS reserves the right to review any costs mandated by another state in the Companies' next general rate case(s) to determine, at that time, whether those costs are reasonable and should be

⁵See Commission Order No. 2018-803(A), in which the Commission stated, "[the Commission] den[ies] any consideration of [upgrade] costs, or the appropriateness of seeking recovery and incorporation of such costs into rate base at this time."

⁶On October 10, 2019, the Commission opened Docket No. 2019-326-E, to address the directives contained in S.C. Code An. § 58-27-460(A). See Commission Order No. 2019-728.

allocated to South Carolina ratepayers, including grid upgrade costs as approved by another states utility commission.



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